

1 Sarah E. André (Bar No. 236145)
2 sandre@nixonpeabody.com
3 Thaddeus J. Stauber (Bar No. 225518)
4 tstauber@nixonpeabody.com
5 NIXON PEABODY LLP
6 Gas Company Tower
7 555 West Fifth Street, 46th Floor
8 Los Angeles, CA 90013
9 Phone: 213-629-6000
10 Fax: 213-629-6001

11 *Of Counsel:*

12 Richard D. Rochford, Jr. (*pro hac vice* application to be filed)

13 rrochford@nixonpeabody.com

14 Kristen M. Walsh (*pro hac vice* application to be filed)

15 kwalsh@nixonpeaboyd.com

16 NIXON PEABODY LLP

17 1100 Clinton Square

18 Rochester, NY, 14604

19 Telephone: 585-263-1533

20 Fax: 866-947-1323

21 Attorneys for Plaintiffs Phoenix House Foundation, Inc.,
22 Phoenix Houses of California, Inc., Phoenix Houses of
23 Los Angeles, Inc., Phoenix House Orange County, Inc.,
24 and Phoenix House San Diego, Inc.

25 **UNITED STATES DISTRICT COURT**
26 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

27 PHOENIX HOUSE FOUNDATION,
28 INC., PHOENIX HOUSES OF
INC., PHOENIX HOUSES OF
CALIFORNIA, INC., PHOENIX
HOUSES OF LOS ANGELES, INC.,
PHOENIX HOUSE ORANGE COUNTY,
INC., PHOENIX HOUSE SAN DIEGO,
INC.,

Plaintiffs,

v.

TIMOTHY K. FROST DBA PHOENIX
HOUSES,

Defendant.

COMPLAINT FOR INJUNCTIVE & DECLARATORY
RELIEF

FILED
11 APR 25 PM 3:36
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

CV No. 11 03530 PSG (AGRx)

COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF

[DEMAND FOR JURY TRIAL]

1 Plaintiffs Phoenix House Foundation, Inc., Phoenix Houses of California, Inc.,
2 Phoenix Houses of Los Angeles, Inc., Phoenix House Orange County, Inc., and
3 Phoenix House San Diego, Inc. (the "Phoenix House Plaintiffs"), by and through their
4 attorneys of record, alleges:

5 NATURE OF THE ACTION

6 1. For more than forty years, the Plaintiff Phoenix House Foundation, Inc.,
7 its predecessors, or affiliates, have built a reputation for operating effective, high-
8 quality substance abuse treatment programs and facilities, including residences, around
9 the country. Within the last few years, Defendant Timothy K. Frost DBA Phoenix
10 Houses Property Management ("Defendant Phoenix Houses"), has opened purported
11 substance abuse-related facilities in the Los Angeles area under the name "Phoenix
12 Houses" and has sought to capitalize on the Phoenix House Plaintiffs' goodwill and
13 strong reputation.

14 2. As set forth below, Defendant Phoenix Houses' confusingly similar name
15 has caused actual confusion among law enforcement officials and consumers. Despite
16 a cease and desist letter from the Phoenix House Plaintiffs, Defendant Phoenix Houses
17 continues to use the name "Phoenix Houses." Unless this Court enters an injunction,
18 Defendant Phoenix Houses will continue to use an infringing name that confuses the
19 public and harms the Phoenix House Plaintiffs.

20 PARTIES

21 3. Plaintiff Phoenix House Foundation, Inc. is a New York not-for-profit
22 corporation with its principal place of business at 164 W. 74th Street, New York, New
23 York 10023.

24 4. Plaintiff Phoenix Houses of California, Inc., a subsidiary of Plaintiff
25 Phoenix House Foundation, Inc., is a California not-for-profit corporation with its
26 principal place of business at 11600 Eldridge Avenue, Lake View Terrace, California
27 91342.

1 5. Plaintiff Phoenix Houses of Los Angeles, Inc., a subsidiary of Plaintiff
2 Phoenix Houses of California, Inc., is a California non-for-profit corporation with its
3 principal place of business at 11600 Eldridge Avenue, Lake View Terrace, California
4 91342.

5 6. Plaintiff Phoenix House Orange County, Inc., a subsidiary of Plaintiff
6 Phoenix Houses of California, Inc., is a California not-for-profit corporation with its
7 principal place of business at 1207 East Fruit Street, Santa Ana, California 92701.

8 7. Plaintiff Phoenix House San Diego, Inc., a subsidiary of Plaintiff Phoenix
9 Houses of California, Inc., is a California not-for-profit corporation with its principal
10 place of business at 23981 Sherilton Valley Road, Descanso, California 91916.

11 8. Collectively, the Phoenix House Plaintiffs are known to the mental health
12 care industry and the public at large as "PHOENIX HOUSE." (A true and correct
13 copy of the main page of Phoenix House Plaintiffs' website (www.phoenixhouse.org)
14 is attached as Exhibit A.)

15 9. Upon information and belief, Defendant Timothy K. Frost DBA Phoenix
16 Houses Property Management ("Defendant Frost" or "Defendant Phoenix Houses") is
17 a citizen of the State of California whose last known address is 4951 Fulton Avenue,
18 Sherman Oaks, California 91423-2004.

19 10. Upon information and belief, Defendant Phoenix Houses operates
20 facilities at 5466 Winnetka Boulevard, Woodland Hills, California 91367 and at 14006
21 Morrison Street, Sherman Oaks, CA 91423. (A true and correct copy of Defendant
22 Phoenix Houses' fax coversheet, dated November 25, 2010, is attached as Exhibit B.)
23 Defendant Phoenix Houses has advertised four additional facilities in Sherman Oaks,
24 California (Phoenix House I), North Hills, California (Phoenix House II), and
25 Northridge, California (Phoenix Houses III and IV). (A true and correct copy of the
26 www.soberhousing.net webpage, dated May 19, 2010, is attached as Exhibit C.)
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JURISDICTION AND VENUE

11. This action arises under the trademark and unfair competition laws of the United States and the laws of the State of California. It is brought pursuant to Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1); Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)-(c); Sections 17200 and 17203 of the California Business & Professional Code; and the common law.

12. This Court has subject matter over the Phoenix House Plaintiffs' claims for trademark infringement and unfair competition pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338(a) because these claims arise under the Lanham Act, as amended, 15 U.S.C. § 1051, *et seq.* This Court has subject matter jurisdiction over the Phoenix House Plaintiffs' related state law and common law claims pursuant to 28 U.S.C. §§ 1338(b) and 1367.

13. This Court has personal jurisdiction over Defendant Phoenix Houses because, upon information and belief, Defendant Phoenix Houses resides in this District, routinely conducts, solicits, advertises, and/or transacts business within this District, and has committed, and is committing, infringing acts within this District.

14. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because, upon information and belief, Defendant Phoenix Houses resides in this District and because a substantial part of the events giving rise to the claim occurred in this District.

FACTS COMMON TO ALL CLAIMS FOR RELIEF

Plaintiffs' Trademark Rights And Strong Reputation

15. One or more of the Phoenix House Plaintiffs has provided substance abuse treatment and prevention services under the name Phoenix House since 1967.

16. Recognizing the long-term nature of recovery, the Phoenix House Plaintiffs offer substance abuse services across a continuum of care, including

1 prevention, early intervention, residential treatment, sober living, continuing care,
2 outpatient support, and recovery support.

3 17. Plaintiff Phoenix House Foundation, Inc. operates more than 120
4 residential and outpatient programs in eleven states, including California. The Phoenix
5 House Plaintiffs have provided services in California since 1979.

6 18. The Phoenix House Plaintiffs operate eighteen programs throughout
7 California, including in Los Angeles (Venice and Lake View Terrace) and Whittier,
8 Santa Ana, Santa Fe Springs, San Diego, and Carlsbad, through which more than 1,000
9 adults and teenagers receive treatment each day.

10 19. The Phoenix House Plaintiffs have been recognized by the Federal
11 Government's Substance Abuse and Mental Health Services Administration's
12 ("SAMHSA") National Registry of Evidence-Based Programs and Practices
13 ("NREPP"). A webpage describing the Phoenix House Academy, a program located at
14 11600 Eldridge Avenue, Lake View Terrace, California and designed for adolescents
15 ages 13-17 with substance abuse and other co-occurring mental health and behavioral
16 disorders, can be found on SAMHSA's website. (A true and correct copy of the
17 webpage is attached as Exhibit D.)

18 20. The Phoenix House Plaintiffs have been recognized by newspapers and
19 magazines around the world, including: The New York Times, The Los Angeles
20 Times, USA Today, The Washington Post, The Sunday Mail (UK), Newsweek, Good
21 Housekeeping, and The New Yorker. The Phoenix House Plaintiffs have been
22 featured in highly-regarding television programs, including: The Oprah Winfrey Show,
23 60 Minutes, Dateline NBC, NBC's The Today Show, ABC's Good Morning America,
24 and Fox News. The Phoenix House Plaintiffs are recognized leaders in the substance
25 abuse treatment realm and have been highlighted in the following industry
26 publications: Inside Addiction Magazine, Health News Digest, Alcoholism Drug
27 Abuse Weekly, Health Executive Magazine, and Behavioral Health Magazine.

21. Since 1967, the Phoenix House Plaintiffs have used, and continue to use, PHOENIX HOUSE as a service mark for their substance abuse treatment and prevention services. The Phoenix House Plaintiffs were the first to adopt and use PHOENIX HOUSE in connection with such services.

22. Plaintiff Phoenix House Foundation, Inc. is the owner of the PHOENIX HOUSE service mark. Plaintiff Phoenix House Foundation, Inc. owns U.S. Trademark Registration No. 997702 ("the '702 Registration") for the mark PHOENIX HOUSE for "treatment and rehabilitation of drug addicts," which issued on November 5, 1974. The '702 Registration is valid, subsisting, unrevoked, uncanceled, and incontestable. (A true and correct copy of the '702 Registration is attached as Exhibit E.)

23. Plaintiff Phoenix House Foundation, Inc. owns U.S. Trademark Registration No. 3820277 ("the '277 Registration") for the mark PHOENIX HOUSE, which issued on July 20, 2010, for the following services:

Class 35: Promoting public awareness on the subjects of treatment and prevention of addiction, addictive behavior, and substance abuse;

Class 41: Educational services, namely, conducting programs in the fields of treatment and prevention of addiction, addictive behavior, and substance abuse; educational services, namely, arranging and providing courses of instruction at the high school level; vocational education in the fields of building maintenance, carpentry, cosmetology, counseling in substance abuse prevention and treatment, culinary arts, and office management; and

Class 44: Substance abuse treatment services; counseling and treatment services in the fields of addiction, addictive behavior, and behavioral health; medical clinics; dental clinics

The '277 Registration is valid, subsisting, unrevoked, and uncanceled. (A true and correct copy of the '277 Registration is attached as Exhibit F.)

24. The Phoenix House Plaintiffs have incurred substantial advertising and promotional expenses relating to its PHOENIX HOUSE brand.

1 25. The mark, PHOENIX HOUSE, as used by the Phoenix House Plaintiffs,
2 is inherently distinctive. PHOENIX HOUSE has been used in interstate commerce
3 extensively and continuously by the Phoenix House Plaintiffs for more than forty years
4 as an indication of source for its substance abuse treatment and prevention services.

5 26. As a result of the Phoenix House Plaintiffs' extensive use and promotion
6 of the mark PHOENIX HOUSE, the Phoenix House Plaintiffs have built a valuable
7 reputation and substantial goodwill that is symbolized by this mark. Patients,
8 prospective patients, and their families, as well as members of the medical community,
9 law enforcement community, and judicial system, have come to associate PHOENIX
10 HOUSE with the Phoenix House Plaintiffs and their substance abuse and treatment
11 services in Los Angeles County, California, and throughout the United States.

12 Defendant Phoenix Houses' Infringing And Unlawful Activities

13 27. In early May 2010, the Phoenix House Plaintiffs learned that Defendant
14 Phoenix Houses was operating in the San Fernando Valley, near one of the Phoenix
15 House Plaintiffs' facilities. Upon information and belief, Defendant Phoenix Houses
16 operates several half-way houses, purporting to provide sober living counseling.

17 28. On May 13, 2010, the Phoenix House Plaintiffs learned that Defendant
18 Phoenix House is run by Defendant Timothy K. Frost. Defendant Frost refers to
19 himself as "Director Phoenix Houses." (A true and correct copy of Defendant Frost's
20 business card is attached as Exhibit G.)

21 29. Defendant Frost's business card and fax cover sheet reference "Phoenix
22 Houses Residential Recovery Program." (See Exhibits B and G.) This name is
23 different from "Phoenix Houses Property Management," Defendant Frost's DBA.

24 30. Upon information and belief, Defendant Frost uses the e-mail address
25 "timfphoenixhouses@yahoo.com" in connection with the operation of his PHOENIX
26 HOUSES program. (See Exhibit G.) According to his business card, Defendant Frost
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1 describes Defendant Phoenix Houses as “a residential sober living program.” (See
2 Exhibit G.)

3 31. Defendant Phoenix Houses has advertised that it has four facilities
4 (Phoenix House I, Phoenix House II, Phoenix House III, and Phoenix House IV) on
5 www.soberhousing.net a listing of sober living facilities in Southern California. (See
6 Exhibit C.)

7 The Phoenix House Plaintiffs Take Action To Protect Mark

8 32. Recognizing that use of the Phoenix House Plaintiffs’ distinctive mark
9 PHOENIX HOUSE in connection with substance abuse treatment programs was an
10 unlawful trademark violation that could cause actual confusion, the Phoenix House
11 Plaintiffs’ attorneys sent a cease and desist letter to Defendant Phoenix Houses. (A
12 true and correct copy of this letter is attached as Exhibit H.) The letter noted that the
13 Phoenix House Plaintiffs’ have owned the U.S. Trademark Registration for the mark
14 “PHOENIX HOUSE” since 1974. The letter requested that Defendant Phoenix
15 Houses “immediately and permanently cease and desist all use of ‘Phoenix House,’
16 including on or in connection with any substance-abuse treatment or recovery facility.”

17 33. Defendant Phoenix Houses did not respond to the letter. Defendant
18 Phoenix Houses did, however, remove its contact information from
19 www.soberhousing.net, a listing of sober living facilities. (A true and correct copy of
20 the webpage, dated July 6, 2010, is attached as Exhibit I.) The Phoenix House
21 Plaintiffs concluded from this action that Defendant Phoenix Houses intended to
22 comply with the requests made in the cease and desist letter.

23 Actual Confusion

24 34. Upon information and belief, Defendant Phoenix Houses has been
25 presenting, and continues to present, itself to jails and detention facilities, including
26 those operated by the Los Angeles County Sheriff’s Department, to pick up individuals
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1 who have been ordered by local courts to participate in substance abuse treatment
2 programs. (See Exhibit B.)

3 35. On December 1, 2010, Plaintiff Phoenix House of California, Inc.
4 received three calls from law enforcement agencies (the Los Angeles County Jail and
5 the Whittier Sheriff's Department) regarding Defendant Phoenix Houses. In the calls,
6 the law enforcement officers and personnel noted that Defendant Phoenix Houses was
7 retrieving inmates recently ordered to undergo treatment for substance abuse. The law
8 enforcement officers and personnel noted that Defendant Phoenix Houses' facility had
9 the "same name" as the Phoenix House Plaintiffs' facilities and expressed concern that
10 Defendant Frost "may be defrauding the court system."

11 36. On the same day, Geoff Henderson, Director of Adult Services, at
12 Plaintiff Phoenix Houses of California, Inc., contacted Defendant Frost by telephone to
13 discuss the actual confusion identified by the law enforcement officials. Defendant
14 Frost responded that although the Phoenix House Plaintiffs' legal representatives had
15 contacted him about a year ago regarding his use of the Phoenix House Plaintiffs'
16 PHOENIX HOUSE mark, his attorney had advised him that he could continue to use
17 the mark.

18 37. Defendant Frost informed Mr. Henderson that he (Defendant Frost) had
19 filed a DBA ("doing business as") four years ago with the name "Phoenix House."
20 Defendant Frost also informed Mr. Henderson that Defendants do not have any state
21 certificates or licenses to operate residential substance abuse treatment and recovery
22 programs.

23 38. Defendant Frost informed Mr. Henderson that he (Defendant Frost) had
24 received telephone calls for the Phoenix House Plaintiffs from courts and the general
25 public.

26 39. Finally, Mr. Henderson and Defendant Frost discussed the "mounting
27 problems" that Defendants' use of the Phoenix House Plaintiffs' PHOENIX HOUSE
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1 mark was causing. Defendant Frost informed Mr. Henderson that he (Defendant Frost)
2 does not intend to stop using the name "Phoenix House" until a court tells him to do
3 so.

4 40. On the same day, Bruce Tobman, Program Director of the Phoenix House
5 Plaintiffs' facility in Venice, California, received a call from Officer Olives at the
6 Twin Towers Correctional Facility in Los Angeles. Officer Olives informed Mr.
7 Tobman that the corrections facility had released inmates to Defendant Phoenix
8 Houses and he (Officer Olives) was calling to see if the inmates had arrived at
9 Plaintiffs' Venice Facility. The Phoenix House Plaintiffs believe that Officer Olives
10 released the inmates to Defendant Phoenix Houses under the mistaken impression that
11 Defendant Phoenix Houses was the Phoenix House Plaintiffs.

12 41. On February 28, 2011, Winifred Wechsler, Executive Director of Plaintiff
13 Phoenix Houses of California, Inc., received an e-mail from the grandmother of a
14 patient in Defendant Phoenix Houses' program. The woman's granddaughter left
15 Defendant Phoenix Houses' program after one week and her grandmother was
16 attempting to obtain a refund for a check paid to Defendant Frost. Apparently
17 believing Defendant Phoenix Houses to be connected to the Phoenix House Plaintiffs,
18 the grandmother sent an e-mail to Plaintiffs, seeking a refund and expressing concern
19 for her granddaughter's treatment.

20 42. On April 13, 2011, Christopher Sharpe, Deputy Public Defender in Santa
21 Clarita, California, communicated with Mr. Tobman regarding Defendant Frost and his
22 use of the Phoenix House Plaintiffs' PHOENIX HOUSE mark. Mr. Sharpe asked Mr.
23 Tobman for a letter confirming that Defendants are not part of the Phoenix House
24 Plaintiffs' organization.

Defendants' Use Of The Phoenix House Plaintiffs' Mark PHOENIX HOUSE Harms
Plaintiffs And The Los Angeles Community

43. Defendant Phoenix Houses is using the Phoenix House Plaintiffs' mark PHOENIX HOUSE without the Phoenix House Plaintiffs' permission, approval, or authorization, and has continued to do so despite the Phoenix House Plaintiffs' objections and requests for Defendant Phoenix Houses to cease use the Phoenix House Plaintiffs' PHOENIX HOUSE mark.

44. Defendant Phoenix Houses' use of the Phoenix House Plaintiffs' PHOENIX HOUSE mark has confused consumers and caused Los Angeles area enforcement officials and consumers seeking information regarding relatives receiving treatment to believe incorrectly that Defendant Phoenix Houses is somehow associated with, affiliated with, or sponsored by, the Phoenix House Plaintiffs.

45. Defendant Phoenix Houses' use of the Phoenix House Plaintiffs' PHOENIX HOUSE mark has resulted in actual consumer confusion in the marketplace as to the source, affiliation, and/or sponsorship of Defendant Phoenix Houses' services, particularly within the law enforcement community and judicial system in Los Angeles County, California.

46. "Phoenix Houses," as used by Defendant Phoenix Houses, is nearly identical to the Phoenix House Plaintiffs' federally registered mark PHOENIX HOUSE.

47. The services Defendant Phoenix Houses purports to provide under the PHOENIX HOUSE name – residential sober living program services – are similar to those provided by the Phoenix House Plaintiffs under their PHOENIX HOUSE mark to the extent that each party's services are provided to individuals in need of services resulting from their abuse of substances.

1 48. The Phoenix House Plaintiffs and Defendant Phoenix Houses provide
2 their respective services in the same or overlapping geographic territories within
3 Southern California and, more specifically, in Los Angeles County.

4 49. Mistaken association of Defendant Phoenix Houses with the Phoenix
5 House Plaintiffs irreparably harms the Phoenix House Plaintiffs' reputation and good
6 standing in the community and the public.

7 50. Unless Defendant Phoenix Houses' use of the Phoenix House Plaintiffs'
8 PHOENIX HOUSE mark is stopped, Defendant Phoenix Houses will continue to cause
9 irreparable harm to the Phoenix House Plaintiffs and the public.

10 **FIRST CLAIM FOR RELIEF**
11 **FEDERAL TRADEMARK INFRINGEMENT**
12 **(15 U.S.C. § 1114(1))**

13 51. The Phoenix House Plaintiffs repeat and incorporate by reference the
14 allegations contained in paragraphs 1 through 50 above as if set forth herein.

15 52. Defendant Phoenix Houses' use of the Phoenix House Plaintiffs'
16 PHOENIX HOUSE mark in connection with residential sober living home program
17 services in the State of California is likely to cause confusion, or to cause mistake, or
18 to deceive as to the affiliation, connection, association, origin, sponsorship, or approval
19 of Defendant Phoenix Houses' services or commercial activities by the Phoenix House
20 Plaintiffs.

21 53. Defendant Phoenix Houses has used, and continues to use, the Phoenix
22 House Plaintiffs' PHOENIX HOUSE mark in violation of Section 32(1) of the
23 Lanham Act, 15 U.S.C. § 1114(1), and Defendant Phoenix Houses' activities has
24 caused and, unless enjoined by this Court, will continue to cause a likelihood of
25 confusion and public deception in the marketplace, and serious and substantial injury
26 to the Phoenix House Plaintiffs' business, goodwill, and reputation as symbolized by
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1 their federally registered PHOENIX HOUSE mark, for which the Phoenix House
 2 Plaintiffs have no adequate remedy at law.

3 54. Defendant Phoenix Houses' actions demonstrate a deliberate and willful
 4 intent to trade on the goodwill associated with the Phoenix House Plaintiffs' federally
 5 registered mark, PHOENIX HOUSE, thereby causing immediate, substantial, and
 6 irreparable injury to the Phoenix House Plaintiffs.

7 55. As the direct and proximate result of Defendant Phoenix Houses' actions,
 8 Defendant Phoenix Houses has caused, and is likely to continue causing, substantial
 9 injury to the public and to the Phoenix House Plaintiffs, and the Phoenix House
 10 Plaintiffs are entitled to injunctive relief, and to recover Defendant Phoenix Houses'
 11 profits, actual damages, enhanced damages, and reasonable attorneys' fees and costs,
 12 pursuant to 15 U.S.C. §§ 1116 and 1117.

13 **SECOND CLAIM FOR RELIEF**
 14 **FEDERAL UNFAIR COMPETITION**
 15 **(15 U.S.C. § 1125(a)(1)(A))**

16 56. The Phoenix House Plaintiffs repeat and incorporate by reference the
 17 allegations contained in paragraphs 1 through 55 above as if set forth herein.

18 57. Defendant Phoenix Houses' use of the Phoenix House Plaintiffs' mark
 19 PHOENIX HOUSE in connection with residential sober living home program services
 20 in the State of California is likely to cause confusion, or to cause mistake, or to deceive
 21 as to the affiliation, connection, association, origin, sponsorship, or approval of
 22 Defendant Phoenix Houses' services or commercial activities by the Phoenix House
 23 Plaintiffs.

24 58. Defendants have used, and continue to use, the Phoenix House Plaintiffs'
 25 mark PHOENIX HOUSE in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §
 26 1125(a), and Defendant Phoenix Houses' activities has caused and, unless enjoined by
 27 this Court, will continue to cause a likelihood of confusion and public deception in the
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1 marketplace, and serious and substantial injury to the Phoenix House Plaintiffs'
 2 business, goodwill, and reputation as symbolized by its federally registered PHOENIX
 3 HOUSE mark, for which the Phoenix House Plaintiffs have no adequate remedy at
 4 law.

5 59. Defendant Phoenix Houses' actions demonstrate a deliberate and willful
 6 intent to trade on the goodwill associated with the Phoenix House Plaintiffs' federally
 7 registered mark, PHOENIX HOUSE, thereby causing immediate, substantial, and
 8 irreparable injury to the Phoenix House Plaintiffs.

9 60. As the direct and proximate result of Defendant Phoenix Houses' actions,
 10 Defendant Phoenix Houses has caused, and is likely to continue causing, substantial
 11 injury to the public and to the Phoenix House Plaintiffs, and the Phoenix House
 12 Plaintiffs are entitled to injunctive relief, and to recover Defendant Phoenix Houses'
 13 profits, actual damages, enhanced damages, and reasonable attorneys' fees and costs,
 14 pursuant to 15 U.S.C. §§ 1116, 1117, and 1125.

15 **THIRD CLAIM FOR RELIEF**

16 **FALSE ADVERTISING UNDER THE LANHAM ACT**

17 **(15 U.S.C. § 1125(a)(1)(B))**

18 61. The Phoenix House Plaintiffs repeat and incorporate by reference the
 19 allegations contained in paragraphs 1 through 60 above as if set forth herein.

20 62. Defendant Phoenix Houses' misleading use of the Phoenix House
 21 Plaintiffs' mark PHOENIX HOUSE mark constitutes false advertising, false
 22 designation of origin, and false representation, in and affecting interstate commerce in
 23 violation of Section 43(a)(1)(B) of the Lanham Act, 15 U.S.C. §1125(a)(1)(B).

24 63. As the direct and proximate result of Defendant Phoenix Houses' actions,
 25 Defendant Phoenix Houses has caused, and is likely to continue causing, substantial
 26 injury to the public and to the Phoenix House Plaintiffs, and the Phoenix House
 27 Plaintiffs are entitled to injunctive relief, and to recover Defendant Phoenix Houses'
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1 profits, actual damages, enhanced damages, and reasonable attorneys' fees and costs,
2 pursuant to 15 U.S.C. §§ 1116, 1117, and 1125.

3 **FOURTH CLAIM FOR RELIEF**
4 **DILUTION UNDER THE LANHAM ACT**
5 **(15 U.S.C. § 1125(c))**

6 64. The Phoenix House Plaintiffs repeat and incorporate by reference the
7 allegations contained in paragraphs 1 through 63 above as if set forth herein.

8 65. As a direct result of the Phoenix House Plaintiffs' long and extensive
9 experience, care, and skill in producing, performing, marketing and advertising its
10 services and facilities under and in association with the Phoenix House Plaintiffs'
11 PHOENIX HOUSE mark, the Phoenix House Plaintiffs' have acquired a reputation for
12 excellence. In addition the Phoenix House Plaintiffs have expended significant sums
13 in advertising and promotion to help create and maintain its reputation as symbolized
14 by the PHOENIX HOUSE mark. The PHOENIX HOUSE mark is both locally,
15 nationally, and internationally famous.

16 66. Defendant Phoenix Houses, by wrongfully using the Phoenix House
17 Plaintiffs' PHOENIX HOUSE mark as described above, has tarnished, blurred, and
18 diluted the Phoenix House Plaintiffs' reputation, goodwill, and trademark in local and
19 interstate commerce.

20 67. Defendant Phoenix Houses' acts are likely to deprive the Phoenix House
21 Plaintiffs of the benefits of the goodwill attached to the Phoenix House Plaintiffs'
22 PHOENIX HOUSE mark, injure the Phoenix House Plaintiffs' business reputation and
23 dilute the distinctive quality of its famous PHOENIX HOUSE mark in violation of 15
24 U.S.C. § 1125(c).

25 68. Upon information and belief, such acts of the Defendant Phoenix Houses
26 described above were done willfully and wantonly, with an intent to trade on the
27 Phoenix House Plaintiffs' reputation, to suggest a connection and to cause confusion.

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1 HOUSE mark, for which the Phoenix House Plaintiffs have no adequate remedy at
2 law.

3 75. Defendant Phoenix Houses has engaged in the actions alleged herein with
4 the intent to deceive the public, to take advantage of the extensive investment by the
5 Phoenix House Plaintiffs in their PHOENIX HOUSE name and mark, and to
6 misappropriate the substantial goodwill associated with such mark.

7 76. Defendant Phoenix Houses' actions have been willful and knowing.

8 77. As a direct and proximate result of Defendant Phoenix Houses' actions,
9 Defendant Phoenix Houses has caused, and is likely to continue causing, serious and
10 substantial injury to the Phoenix House Plaintiffs, citizens of California, and the
11 public.

12 **SIXTH CLAIM FOR RELIEF**

13 **UNFAIR COMPETITION**

14 **(Common Law)**

15 78. The Phoenix House Plaintiffs repeats and incorporates by reference the
16 allegations contained in paragraphs 1 through 77 above as if set forth herein.

17 79. Defendant Phoenix Houses' use of the Phoenix House Plaintiffs'
18 PHOENIX HOUSE mark in connection with residential sober living home program
19 services in the State of California is likely to cause confusion, or to cause mistake, or
20 to deceive as to the affiliation, connection, association, origin, sponsorship, or approval
21 of Defendant Phoenix Houses' services or commercial activities by the Phoenix House
22 Plaintiffs.

23 80. Defendant Phoenix Houses' activities in the conduct of trade constitute
24 trademark infringement, unfair competition, and false advertising, in violation on the
25 common law of the State of California.

26 81. Defendant Phoenix Houses' use of the Phoenix House Plaintiffs'
27 PHOENIX HOUSE mark and related activities has caused and, unless enjoined by this
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1 Court, will continue to cause a likelihood of confusion and public deception in the
2 marketplace, and serious and substantial injury to the Phoenix House Plaintiffs'
3 business, goodwill, and reputation as symbolized by its federally registered PHOENIX
4 HOUSE mark, for which the Phoenix House Plaintiffs have no adequate remedy at
5 law.

6 82. Defendant Phoenix Houses has engaged in the actions alleged herein with
7 the intent to deceive the public, to take advantage of the extensive investment by the
8 Phoenix House Plaintiffs in its PHOENIX HOUSE name and mark, and to
9 misappropriate the substantial goodwill associated with such mark.

10 83. Defendant Phoenix Houses' actions have been willful and knowing.

11 84. As a direct and proximate result of Defendant Phoenix Houses' actions,
12 Defendant Phoenix Houses has caused, and is likely to continue causing, serious and
13 substantial injury to the Phoenix House Plaintiffs.

14 JURY TRIAL DEMANDED

15 The Phoenix House Plaintiffs demand a jury trial in this matter pursuant to Rule
16 38 of the Federal Rules of Civil Procedure.

17 DEMAND FOR RELIEF

18 WHEREFORE, the Phoenix House Plaintiffs pray for a judgment in their favor
19 and against Defendant Phoenix Houses as follows:

20 1. For a temporary, preliminary, and permanent injunction against Defendant
21 Phoenix Houses and all persons acting in concert with Defendant Phoenix Houses or
22 purporting to act on behalf of Defendant Phoenix Houses, or in active concert or in
23 participation with Defendant Phoenix Houses, including, but not limited to, Defendant
24 Phoenix Houses' agents, servants, employees, successors, assigns, and attorneys,
25 enjoining and restraining them from infringing the Phoenix House Plaintiffs' service
26 mark, from diluting the distinctive quality of the Phoenix House Plaintiffs' service
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1 mark, and from unfairly competing with the Phoenix House Plaintiffs in any manner
2 whatsoever, and specifically from:

3 (a) using PHOENIX HOUSE, PHOENIX HOUSES, or PHOENIX in any
4 fashion in connection with substance abuse services or residential sober living
5 programs services;

6 (b) performing any acts that are likely to lead consumers to believe that
7 Defendant Phoenix Houses is affiliated or associated with, or sponsored by, the
8 Phoenix House Plaintiffs; and

9 (c) committing any other act that infringes the Phoenix House Plaintiffs'
10 service mark or constitutes unfair competition against the Phoenix House Plaintiffs.

11 2. For an Order that Defendant Phoenix Houses file with the Court and serve
12 on the Phoenix House Plaintiffs' counsel within thirty (30) days after service of any
13 preliminary injunction or final injunction issued herein, or within such reasonable time
14 as the Court may direct, a report in writing and under oath, setting forth in detail the
15 manner and form in which Defendant Phoenix Houses has complied with such
16 injunction.

17 3. For all damages the Phoenix House Plaintiffs have suffered by reason of
18 Defendant Phoenix Houses' unlawful activities.

19 4. For all profits wrongfully derived by Defendant Phoenix Houses through
20 its unlawful activities.

21 5. For three times Defendant Phoenix Houses' profits or the Phoenix House
22 Plaintiffs' damages, whichever is greater, arising from Defendant Phoenix Houses'
23 unlawful activities pursuant to 15 U.S.C. § 1117(a) and (b).

24 6. For punitive damages to the fullest extent permitted by law and equity,
25 and as required in the interests of justice.

26 7. For prejudgment and post-judgment interest, pursuant to 15 U.S.C.
27 § 1117(b) and other applicable law.
28

1 8. For a determination that this case be deemed to be an "exceptional" case
2 and/or that Defendant Phoenix Houses acted in "bad faith" and awarding costs of suit
3 and reasonable attorney fees and disbursements, pursuant to 15 U.S.C. § 1117(b) and
4 other applicable law; and

5 9. For such other and further relief as this Court deems just and equitable.

7 DATED: April 25, 2011

Respectfully submitted,
NIXON PEABODY LLP

9 By: 

Sarah E. André (Bar No. 236145)
sandre@nixonpeabody.com

Thaddeus J. Stauber (Bar. No. 225518)
tstauber@nixonpeabody.com

NIXON PEABODY LLP

Gas Company Tower
555 West Fifth Street, 46th Floor
Los Angeles, CA 90013
Phone: 213-629-6000
Fax: 213-629-6001

16 *Of Counsel:*

17 Richard D. Rochford, Jr. (*pro hac vice* application to be filed)
18 rrochford@nixonpeabody.com

19 Kristen M. Walsh (*pro hac vice* application to be filed)
20 kwalsh@nixonpeaboyd.com

NIXON PEABODY LLP
1100 Clinton Square
Rochester, NY, 14604
Telephone: 585-263-1533
Fax: 866-947-1323

23 Attorneys for Plaintiffs Phoenix House Foundation, Inc.,
24 Phoenix Houses of California, Inc., Phoenix Houses of
25 Los Angeles, Inc., Phoenix House Orange County, Inc.,
26 and Phoenix House San Diego, Inc.

EXHIBIT A

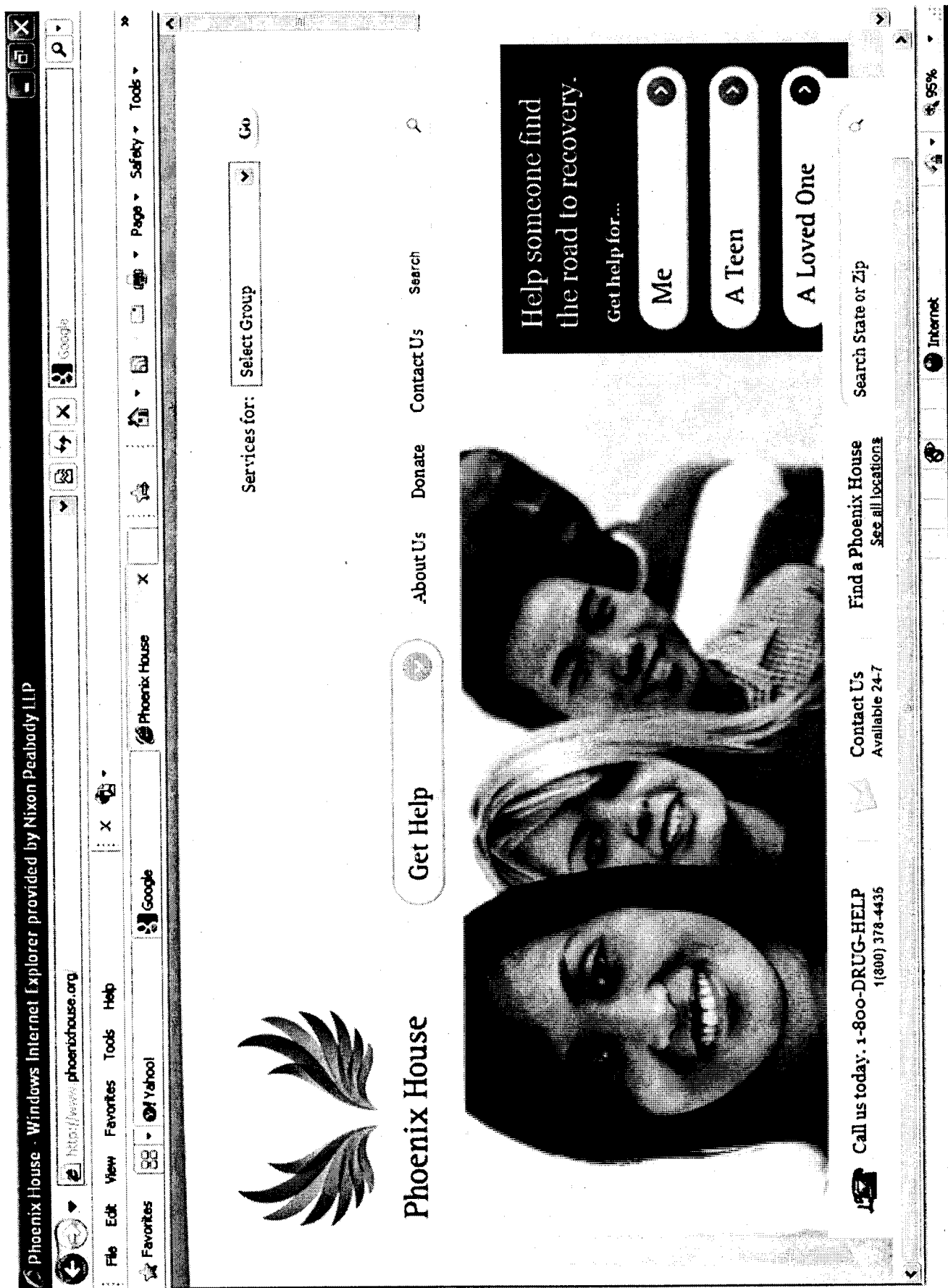


EXHIBIT B

12/01/2010 10:21 FAX 213 631 0092

LA COUNTY-SHERIFF'S

003/005

PHOENIX HOUSES

RESIDENTIAL RECOVERY PROGRAM

6446 WINNETKA BLVD. WOODLAND HILLS, CA 91367

(818) 999 - 9654

14006 MORRISON ST. SHERMAN OAKS, CA 91421

(818) 359 - 2660

A.I.R. APPROVED (ASSESSMENT...INTERVENTION...RESOURCES)

DATE: NOVEMBER 23, 2010

DRIVER: TIMOTHY K. FROST ID#C2340264
WILL BE PICKING UP COULTER,
CARLIE ID#C2526730

ATT: TTCF/GENNETTE
LYNNWOOD DETENTION CENTER

RE: COULTER, CARLIE

BK/CSW 2526730/PA007660

THIS LETTER IS TO CONFIRM THAT PHRRP IS PICKING UP JASON TAYLOR BK #2303210.

ON A COURT ORDER BY JUDGE FREIXES, GRACIELA. SANTA CLARITA COURTHOUSE DEPT 1.

IF YOU HAVE ANY QUESTION PLEASE CALL:

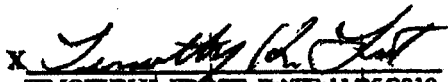
X 
TIMOTHY K. FROST DATE: 11/25/2010
DIRECTOR OF PHOENIX HOUSES
RESIDENTIAL RECOVERY PROGRAM
CELL PHONE: (562) 310 - 1184
OFFICE: (818) 802 - 0834

EXHIBIT C

Quality Sober Living Homes in Southern California

THE SOBER LIVING NETWORK



[Home](#) [Vision](#) [Organizing](#) [Training](#) [Contact](#) [Sponsors](#)

Find Sober Housing In Your SoCal Community Search By Area

The Sober Living Network

San Fernando Valley

City	Sober Living Home	Contact	Phone	Serves	Cost
Calabasas	<u>Seasons Sober Living</u>	Larry Norman	(818) 692-4296	coed	\$4500
Canoga Park	<u>Comfort Zone</u>	Ike Eichar	(818) 894-8617	coed	\$840
Canoga Park	Discovery House I Sober Living	Tony D.	(818) 903-6441	men	\$550
Canoga Park	New Beginnings Sober Living	Gary Sutter	(818) 620-5624	men	\$600
Canoga Park	Second Chance Sober Living	Alan Nathen	(818) 961-6155	men	\$500
Canyon Country	Bridges	Eleanor Boutte	(661) 252-0569	women	\$765
Chatsworth	Stone Sober Society	Linda Perez	(818) 772-6888	coed	\$500
Chatsworth	<u>A Work In Progress</u>	Liz Leon	(818) 633-1719	women	\$700
Encino	<u>Angel Villa</u>	Georgia Frabotta	(877) 768-9673	coed	\$3500
Encino	Casa Nuevo Vida	David Marvin	(310) 592-0139	men	\$2750
Encino	<u>Mulholland Recovery SL</u>	Christine Franz	(818) 917-3438	coed	\$1000
Encino	<u>Petit House Sober Living</u>	Tyrone Adair	(818) 800-7009	men	\$1500
Encino	Sunrise III	Carmen Risiglione	(818) 968-6669	coed	\$550
Glendale	Geneva House	Michael Akopov	(323) 481-5455	men	\$600
Glendale	New Visions Sober Living	Janelle Jones	(818) 247-8493	coed	\$520
Granada Hills	Clear View Sober Living I	George Turner	(818) 451-6968	men	\$500
Granada Hills	Clear View Sober Living II	George Turner	(818) 451-6968	men	\$500
Granada Hills	New Horizon Sober Living	Iraj Salehyar	(818) 360-8574	men	\$600

City	Sober Living Home	Contact	Phone	Serves	Cost
Granada Hills	Small Steps II	Al Pittman-J. McClure	(818) 881-0073	men	\$500
Hollywood Hills	Hollycrest Sober Living	Robert & Hugh Biele	(323) 876-5485	men	\$500
North Hills	<u>Community Sober Living</u>	Paul Dumont	(818) 893-4365	coed	\$900
North Hills	The Digs Sober Living	Drew Williams	(818)939-3197	men	\$525
North Hills	Phoenix House II	Tim Frost	(562) 310-1184	coed	\$650
North Hills	<u>Recovery Zone I Sober Living</u>	Claude Eichar	(818) 894-8617	men	\$600
No. Hollywood	Abbey House	Kelly Hagerman	(310) 871-1336	men	\$500
No. Hollywood	<u>Angel House I</u>	Georgia F., Priscilla	(818) 906-2435	women	\$575
No. Hollywood	<u>Angel House III</u>	Georgia Frabotta	(818) 906-2435	men	\$575
No. Hollywood	<u>Chandler Lodge</u>	Main Office	(818) 766-4534	men	\$650
No. Hollywood	<u>Primary Purpose III</u>	Mary Grayson	(818) 612-1439	men	\$550
North Hollywood	Second Chance Sober Living	John Hakopyan	(818) 209-4472	men	\$525
No. Hollywood	<u>Spencer House II</u>	Fred Foster	(818) 252-6545	men	\$550
No. Hollywood	Vesper House	Charlotte	(818) 769-3057	women	\$520
Northridge	Parthenia House	Lisa Richards	(818) 996-1051	men	\$425
Northridge	Phoenix Houses III	Timothy Frost	(562) 310-1184	wm-w-ch	\$650
Northridge	Phoenix Houses IV	Timothy Frost	(562) 310-1184	coed	\$650
Northridge	<u>Peaceful Discoveries</u>	Cindy Green	(818) 527-1930	women	\$800
Northridge	<u>A Step In The Right Direction</u>	Linda Ruzich	(818) 720-7075	women	\$var.
Panorama City	Serenity Retreat	Ryan Valencia	(818) 997-3734	men	\$580
Reseda	Arminta House	Lisa Richards	(818) 996-1051	men	\$425
Reseda	Arminta House II	Lisa Richards	(818) 996-1051	women	\$425
Reseda	<u>The Discovery House</u>	Tom Whiting	(818) 844-5272	men	\$1000
Reseda	Elijah's House	Lisa Hines	(818) 300-1002	men	\$500
Reseda	Fresh Start	Lynn	(818) 642-6384	coed	\$550
Reseda	Jamieson House	Lisa Richards	(818) 996-1051	women	\$425
Reseda	On Solid Ground	Josie Galindo	(818)929-3994	coed	\$750
Reseda	<u>Reseda Villa Sober Living</u>	Rohan	(818) 571-6998	men	\$500

City	Sober Living Home	Contact	Phone	Serves	Cost
Reseda	Serenity Connections-Men	Anthony	(818) 921-8199	men	\$625
Reseda	Serenity Connections-Women	Kim Robbins	(818) 921-8062	women	\$625
Reseda	Small Steps I	Al Pittman-J. McClure	(818) 881-0073	coed	\$500
Reseda	Soberspace	Chris Krug	(818) 235-9910	men	\$525
Sherman Oaks	Phoenix House I	Tim Frost	(562) 310-1184	coed	\$650
Sherman Oaks	<u>A Safe Place</u>	Doug Eggleton	(818) 590-4886	men	\$1500
Stevenson Ranch	<u>Jax's Place</u>	Cheryl Petway	(818) 402-6148	men	\$695
Sun Valley	Alpha & Omega Sober Living	Rima Abelian, Samuel Tan	(818) 253-5989	coed	\$650
Sun Valley	Alpha & Omega Sober Living II	Rima Abelian, Samuel Tan	(818) 253-5989	coed	\$650
Sunland	<u>12 Step Sober Living</u>	Lisa & Joel Moss	(818) 445-9901	men	\$500
Sunland	<u>Club 12</u>	Mark Gregoire	(818) 674-2575	men	\$500
Sunland	<u>RAF Three Palms Ranch</u>	Robert Holbrook	(626) 216-5427	coed	\$650
Tarzana	<u>Sober Souls Ranch</u>	Audy Harman	(818) 266-2849	coed	\$940
Tarzana	<u>Sober Souls Sober Living</u>	Matthew	(818) 201-4717	coed	\$940
Tujunga	<u>Club 12 Sober Living</u>	Mark Gregoire	(818) 674-2575	men	\$500
Valley Glen	<u>Bridge at Valley Glen</u>	David Casey	(818) 939-3486	men	\$4000
Valley Glen	<u>Primary Purpose I</u>	Mary Grayson	(818) 612-1439	women	\$550
Valley Village	Sunrise I	Carmen Risiglione	(818) 968-6669	men	\$500
Van Nuys	<u>AA/NA Sobriety Central</u>	Joey Axelson	(818) 326-6499	men	\$550
Van Nuys	Calvert House	David Harris	(626) 437-8683	men	\$1500
Van Nuys	Kenneth Place Sober Living	Jeff Sibbrel-Star Tomlinson	(818) 602-5959	men	\$600
Van Nuys	Maya Clean & Sober	Bia Sarro	(818) 585-8280	women	\$550
Van Nuys	<u>Primary Purpose II</u>	Mary Grayson	(818) 612-1439	men	\$550
Van Nuys	<u>Recovery Zone II</u>	Ike Eichar	(818) 894-8617	men	\$500
Van Nuys	<u>Ruth's House Sober Living</u>	Tamar Goldberg	(310) 936-8172	women	\$600
Van Nuys	Second Chance Sober Living	John Hakopyan	(818) 310-7433	men	\$400
Van Nuys	Second Chance Sober Living II	John Hakopyan	(818) 310-7433	men	\$500
Van Nuys	<u>Spencer House</u>	Ruben Calderon	(818) 785-6639	men	\$550
Van Nuys	Sunrise II	Carmen Risiglione	(818) 968-6669	men	\$550

City	Sober Living Home	Contact	Phone	Serves	Cost
Van Nuys	Sylvan House	Martin Suran	(818) 749-6282	coed	\$525
Westlake	<u>The Lake House</u>	Stuart Birnbaum	(877) 762-3707	coed	\$3500
Winnetka	Kelvin House	Lisa Richards	(818) 996-1051	men	\$425
Winnetka	New Beginnings Sober Living	Gina Romero	(818) 915-0548	women	\$500
Winnetka	Quartz House	Lisa Richards	(800) 996-1051	men	\$425
Woodland Hills	<u>Community Sober Living</u>	Paul Dumont	(818) 893-4365	coed	\$900
Woodland Hills	<u>Community Kids Sober Living</u>	Paul Dumont	(818) 893-4365	wm-w-ch	\$500
Woodland Hills	Sober College – Friar	Robert Pfeifer	(818) 274-0304	men	\$2000
Woodland Hills	Sober College – Melvin	Cody Bassett	(818) 274-0304	women	\$2000
Woodland Hills	Sober College – Oxnard	Robert Pfeifer	(818) 274-0304	men	\$2000
Woodland Hills	Sober College – Shoup	Robert Pfeifer	(818) 274-0304	men	\$2000

The Network would like to thank our generous website sponsors, whose listings appear in blue above.

The Sober Living Network
 P.O. Box 5235
 Santa Monica, CA 90409
 (310) 396-5270

HomeOrganizingTrainingCommunityContactSite Map

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 Hosting provided by Heller NetWorks and The Sober Musicians Project

EXHIBIT D

Learn More

For information on implementation:

Deni Carise, Ph.D.
(646) 505-2165
dcarise@phoenixhouse.org

For information on research:

Jennifer Butler
(646) 505-2168
jbutler@phoenixhouse.org

Questions to Ask (PDF) as you explore the possible use of this intervention.

PDF This Summary

Create a downloadable, printer friendly version.

PDF

Intervention

[Back to Results](#)

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Summary

Phoenix House Academy

Date of Review: December 2007

Phoenix House Academy (formerly known as Phoenix Academy) is a therapeutic community (TC) model enhanced to meet the developmental needs of adolescents ages 13-17 with substance abuse and other co-occurring mental health and behavioral disorders. The Phoenix House Academy model integrates residential treatment with an on-site public junior high and high school (grades 8-12). Some Phoenix House Academy programs also include trade or technical training sponsored by local community colleges. The community campus receives most of its referrals from juvenile probation, family, and self-referrals, with the remaining youth coming from social service agencies (e.g., departments of mental health, children and family services), health care providers, and educational institutions. Professional program staff include psychiatrists, psychologists, social workers, and counselors, many of whom are in recovery themselves.

The Phoenix House Academy TC model maintains that substance abuse is an outward manifestation of a broad set of personal and developmental problems in the adolescent and that successful recovery is built upon change involving the whole person--psychologically, socially, and behaviorally. Participants learn to embrace honesty, focus on effective living in the present moment (rather than in the past), accept personal responsibility for their own actions, develop a strong work ethic, and adhere to a strict moral code known as right living. The process for

Email This Summary

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 From:
 Your Name (Required)
 Your Email Address (Required)

Send

change is behavioral social learning, which takes place in a community of supportive peers and staff who model and support the rehearsal of effective behaviors. Each residential member earns status promotions and other privileges by complying with program rules and expectations and demonstrating specific behaviors toward attaining treatment goals, such as attending school. Behavior that deviates from the community's sober-living norms results in sanctions or loss of previously earned privileges. During treatment, youth progress through treatment phases with increasing program privileges and responsibilities. Days are highly structured, with most waking hours spent in school, community meetings, lectures, groups, individual and family counseling, community service, aftercare services, and recreation. In some programs, other types of scientifically sound and empirically tested interventions may be incorporated into treatment as well. Phoenix House Academy programs offer gender-specific services, and some can provide treatment for individuals up to 20 years of age.

Descriptive Information

Areas of Interest	
Outcomes	Substance abuse treatment Co-occurring disorders
Outcome Categories	1: Substance use 2: Psychological functioning Alcohol Drugs Mental health Tobacco
Ages	13-17 (Adolescent)
Genders	Male Female
Races/Ethnicities	Black or African American Hispanic or Latino White Race/ethnicity unspecified
Settings	Residential

Page Last Updated: 12/30/2010

Geographical Locations	Urban Suburban
Implementation History	Since 1980, Phoenix House Academy has been implemented in 11 residential community facilities in 7 States: California, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Texas. Each program has differing treatment lengths. To date, approximately 20,275 adolescents have participated in and completed the Phoenix House Academy treatment program.
NIH Funding/CER Studies	Partially/fully funded by National Institutes of Health: Yes Evaluated in comparative effectiveness research studies: Yes
Adaptations	No population- or culture-specific adaptations were identified by the applicant.
Adverse Effects	No adverse effects, concerns, or unintended consequences were identified by the applicant.
IOM Prevention Categories	IOM prevention categories are not applicable.

Learn More - click on the categories below to display more information related to this intervention

Outcomes

Quality of Research

Study Populations

Readiness for Dissemination

Costs

Replications

Learn More by Visiting:

- <http://www.phoenixhouse.org>

The NREPP review of this intervention was funded by the Center for Substance Abuse Treatment (CSAT).

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
 Substance Abuse and Mental Health Services Administration
www.samhsa.gov

Home | Find an Intervention | Reviews & Submissions |
 Learning Center | Contact Us
 About NREPP | Privacy Policy | Accessibility | FOIA Policy | Sitemap
 Links to SAMHSA Center Home Pages - CSAP CSAT CMHS

EXHIBIT E

Int. Cl.: 42

Prior U.S. Cl.: 100

United States Patent Office

Reg. No. 997,702

Registered Nov. 5, 1974

SERVICE MARK

Principal Register

PHOENIX HOUSE

Phoenix House Foundation, Inc. (New York not-for-profit
corporation)
164 W. 74th St.
New York, N.Y. 10023

For: TREATMENT AND REHABILITATION OF
DRUG ADDICTS, in CLASS 100 (INT. CL. 42).
First use Nov. 7, 1967; in commerce Dec. 18, 1967.

Ser. No. 457,241, filed May 11, 1973.

Int. Cl.: 42

Prior U.S. Cl.: 100

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 997,702

Registered Nov. 5, 1974

Renewal Term Begins Nov. 5, 1994

**SERVICE MARK
PRINCIPAL REGISTER**

PHOENIX HOUSE

PHOENIX HOUSE FOUNDATION, INC.
(NEW YORK NOT-FOR-PROFIT COR-
PORATION),
164 W. 74TH ST.
NEW YORK, NY 10023

FOR: TREATMENT AND REHABI-
LITATION OF DRUG ADDICTS, IN
CLASS 100 (INT. CL. 42).
FIRST USE 11-7-1967; IN COMMERCE
12-18-1967.

SER. NO. 72-457,241, FILED 5-11-1973.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on June 13, 1995.*

COMMISSIONER OF PATENTS AND TRADEMARKS

EXHIBIT F

United States of America

United States Patent and Trademark Office

PHOENIX HOUSE

Reg. No. 3,820,277

Registered July 20, 2010

Int. Cls.: 35, 41 and 44

SERVICE MARK

PRINCIPAL REGISTER

PHOENIX HOUSE FOUNDATION, INC. (NEW YORK NOT-FOR-PROFIT CORPORATION)
164 W. 74TH STREET
NEW YORK, NY 10023

FOR: PROMOTING PUBLIC AWARENESS ON THE SUBJECTS OF TREATMENT AND PREVENTION OF ADDICTION, ADDICTIVE BEHAVIOR, AND SUBSTANCE ABUSE, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 0-0-1967; IN COMMERCE 0-0-1967.

FOR: EDUCATIONAL SERVICES, NAMELY, CONDUCTING PROGRAMS IN THE FIELDS OF TREATMENT AND PREVENTION OF ADDICTION, ADDICTIVE BEHAVIOR, AND SUBSTANCE ABUSE; EDUCATIONAL SERVICES, NAMELY, ARRANGING AND PROVIDING COURSES OF INSTRUCTION AT THE HIGH SCHOOL LEVEL; VOCATIONAL EDUCATION IN THE FIELDS OF BUILDING MAINTENANCE, CARPENTRY, COSMETOLOGY, COUNSELING IN SUBSTANCE ABUSE PREVENTION AND TREATMENT, CULINARY ARTS, AND OFFICE MANAGEMENT, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 0-0-1967; IN COMMERCE 0-0-1967.

FOR: SUBSTANCE ABUSE TREATMENT SERVICES; COUNSELING AND TREATMENT SERVICES IN THE FIELDS OF ADDICTION, ADDICTIVE BEHAVIOR, AND BEHAVIORAL HEALTH; MEDICAL CLINICS; DENTAL CLINICS, IN CLASS 44 (U.S. CLS. 100 AND 101).

FIRST USE 0-0-1967; IN COMMERCE 0-0-1967.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 997,702.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HOUSE", APART FROM THE MARK AS SHOWN.

SER. NO. 77-707,329, FILED 4-6-2009.

MARY BOAGNI, EXAMINING ATTORNEY



David J. Kypas

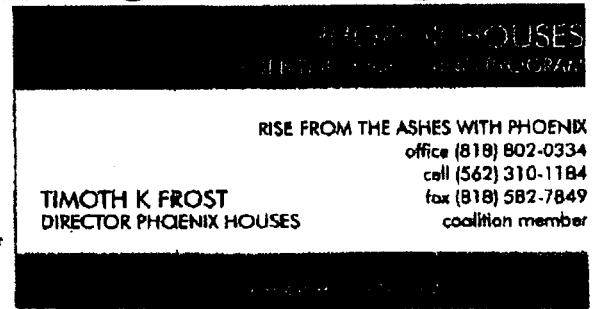
Director of the United States Patent and Trademark Office

EXHIBIT G

12/01/2010 10:21 FAX 213 631-092

LA COUNTY-SHERIFF'S

002/005



Timothy Kelly Frost
(562) 310-1184

EXHIBIT H

NIXON PEABODY_{LLP}
ATTORNEYS AT LAW

1300 Clinton Square
Rochester, New York 14604-1792
(585) 263-1000
Fax: (585) 263-1600

Kristen M. Walsh, Counsel
Direct Dial: (585) 263-1065
E-Mail: kwash@nixonpeabody.com

June 16, 2010

VIA FAX & E-MAIL (timfphoeixhouses@yahoo.com)

Mr. Timoth K. Frost
Director, Phoenix Houses

RE: Unauthorized Use of the Registered Trademark "Phoenix House"

Dear Mr. Frost:

We represent Phoenix House Foundation, Inc. ("Phoenix House"). Phoenix House has provided alcohol and drug abuse treatment and prevention services under the "Phoenix House" name and trademark since 1967. Phoenix House is the largest such facility in the nation, and operates over 150 residential and outpatient programs throughout ten states, including in California. Additional information about Phoenix House and its programs and services can be found on the website, www.phoenixhouse.org. Phoenix House owns U.S. Trademark Registration 997702 for the mark PHOENIX HOUSE for use in connection with "treatment and rehabilitation of drug addicts." The registration issued in 1974, has been timely renewed, and is in full force and effect.

Phoenix House has learned that you are operating a residential sober living program in the San Fernando Valley under the name "Phoenix House," and that you are listing four residential homes through The Sober Living Network under the names "Phoenix House I," "Phoenix House II," "Phoenix House III," and "Phoenix House IV." Your unauthorized use of the federally registered trademark "Phoenix House" constitutes trademark infringement, false designation of origin, and unfair competition under the Lanham Act, and violates various state law unfair competition provisions.

We request that you immediately and permanently cease and desist all use of "Phoenix House," including on or in connection with any substance-abuse treatment or recovery facility, including residential homes for sober living; that you remove "Phoenix House" from your business or program name; and that you complete, execute, and return to me the enclosed Declaration.

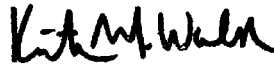
13034852.1

WWW.NIXONPEABODY.COM

Timoth K. Frost
June 16, 2010
Page 2

Please contact me by June 28, 2010 to confirm that you are complying with Phoenix House's requests. While we hope to resolve this matter quickly and amicably, Phoenix House reserves all rights to seek appropriate legal relief, including attorney fees, costs, and enhanced damages.

Very truly yours,



Kristen M. Walsh

Enclosure

cc: John J. Diehl, Esq.
Phoenix House Foundation, Inc.

13034852.1

NIXON PEABODY LLP

DECLARATION

1. I am the Director of the Phoenix Houses residential sober living program (the "Program"), which operates of four sober residential homes in the San Fernando Valley. I make this declaration on behalf of myself and the Program.

2. I and the Program have permanently ceased all use of "Phoenix House," including on or in connection with any substance-abuse treatment or recovery facility, including residential homes for sober living; in The Sober Living Network directory; and in all advertisements or promotional materials.

3. I and the Program have changed the names of the four sober residential homes we operate in the San Fernando Valley to the following, effective _____, 2010:

- (a) _____, formerly Phoenix House I;
- (b) _____, formerly Phoenix House II;
- (c) _____, formerly Phoenix House III; and
- (d) _____, formerly Phoenix House IV

Pursuant to 28 U.S.C. § 1746, I declare under the penalty of perjury that the foregoing is true and correct.

Executed on June _____, 2010

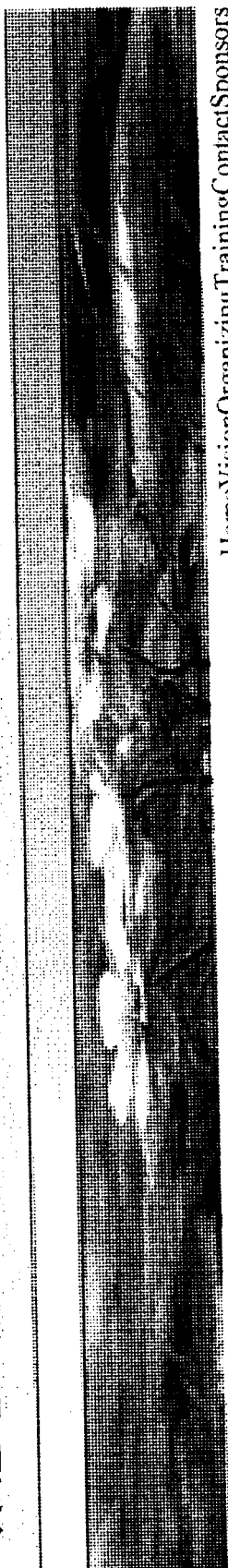
Timoth K. Frost
Director

EXHIBIT I

San Fernando Valley Sober Living Homes and Recovery Houses-Southern California

Quality Sober Living Homes in Southern California

THE SOBER LIVING NETWORK



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Find Sober Housing In Your SoCal Community Search By Area

Go

The Sober Living Network

San Fernando Valley

City	Sober Living Home	Contact	Phone	Serves	Cost
Calabasas	<u>Seasons Sober Living</u>	Larry Norman	(818) 692-4296	coed	\$4500
Canoga Park	<u>Comfort Zone</u>	Ike Eichar	(818) 894-8617	coed	\$840
Canoga Park	Discovery House I Sober Living	Tony D.	(818) 903-6441	men	\$550
Canoga Park	New Beginnings Sober Living	Gary Sutter	(818) 620-5624	men	\$600
Canoga Park	Second Chance Sober Living	Alan Nathen	(818) 961-6155	men	\$500
Canyon Country	Bridges	Eleanor Boutte	(661) 252-0569	women	\$765
Chatsworth	Stone Sober Society	Linda Perez	(818) 772-6888	coed	\$500
Chatsworth	<u>A Work In Progress</u>	Liz Leon	(818) 633-1719	women	\$700

7/6/2010

http://www.soberhousing.net/san_fernando.html

San Fernando Valley Sober Living Homes and Recovery Houses-Southern California

City	Sober Living Home	Contact	Phone	Serves	Cost
Encino	<u>Angel Villa</u>	Georgia Frabotta	(877) 768-9673	coed	\$3500
Encino	Casa Nuevo Vida	David Marvin	(310) 592-0139	men	\$2750
Encino	<u>Mulholland Recovery SL</u>	Christine Franz	(818) 917-3438	coed	\$1000
Encino	<u>Petit House Sober Living</u>	Tyrone Adair	(818) 800-7009	men	\$1500
Encino	Sunrise III	Carmen Risiglione	(818) 968-6669	coed	\$550
Glendale	Geneva House	Michael Akopov	(323) 481-5455	men	\$600
Glendale	New Visions Sober Living	Janelle Jones	(818) 247-8493	coed	\$520
Granada Hills	Clear View Sober Living I	George Turner	(818) 451-6968	men	\$500
Granada Hills	Clear View Sober Living II	George Turner	(818) 451-6968	men	\$500
Granada Hills	New Horizon Sober Living	Iraj Salehyar	(818) 360-8574	men	\$600
Granada Hills	Small Steps II	Al Pittman-J. McClure	(818) 881-0073	men	\$500
Hollywood Hills	Hollycrest Sober Living	Robert & Hugh Biele	(323) 876-5485	men	\$500
North Hills	<u>Community Sober Living</u>	Paul Dumont	(818) 893-4365	coed	\$900
North Hills	The Digs Sober Living	Drew Williams	(818) 939-3197	men	\$525
North Hills	<u>Recovery Zone I Sober Living</u>	Claude Eichar	(818) 894-8617	men	\$600
No. Hollywood	Abbey House	Kelly Hagerman	(310) 871-1336	men	\$500
No. Hollywood	<u>Angel House I</u>	Georgia F., Priscilla	(818) 906-2435	women	\$575
No. Hollywood	<u>Angel House III</u>	Georgia Frabotta	(818) 906-2435	men	\$575
No. Hollywood	<u>Chandler Lodge</u>	Main Office	(818) 766-4534	men	\$650
No. Hollywood	<u>Primary Purpose III</u>	Mary Grayson	(818) 612-1439	men	\$550

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http://www.soberhousing.net/san_fernando.html

San Fernando Valley Sober Living Homes and Recovery Houses-Southern California

City	Sober Living Home	Contact	Phone	Serves	Cost
North Hollywood	Second Chance Sober Living	John Hakopyan	(818) 209-4472	men	\$525
No. Hollywood	<u>Spencer House II</u>	Fred Foster	(818) 252-6545	men	\$550
No. Hollywood	Vesper House	Charlotte	(818) 769-3057	women	\$520
Northridge	Parthenia House	Lisa Richards	(818) 996-1051	men	\$425
Northridge	<u>Peaceful Discoveries</u>	Cindy Green	(818) 527-1930	women	\$800
Northridge	<u>A Step In The Right Direction</u>	Linda Ruzich	(818) 720-7075	women	\$var.
Panorama City	Serenity Retreat	Ryan Valencia	(818) 997-3734	men	\$580
Reseda	Arminta House	Lisa Richards	(818) 996-1051	men	\$425
Reseda	Arminta House II	Lisa Richards	(818) 996-1051	women	\$425
Reseda	<u>The Discovery House</u>	Tom Whiting	(818) 844-5272	men	\$1000
Reseda	Elijah's House	Lisa Hines	(818) 300-1002	men	\$500
Reseda	Fresh Start	Lynn	(818) 642-6384	coed	\$500
Reseda	Jamieson House	Lisa Richards	(818) 996-1051	women	\$425
Reseda	On Solid Ground	Josie Galindo	(818) 929-3994	coed	\$750
Reseda	<u>Reseda Villa Sober Living</u>	Rohan	(818) 571-6998	men	\$500
Reseda	Serenity Connection - Men	Terrence Frazier	(818) 687-4906	men	\$650
Reseda	Serenity Connections-Women	Terrence Frazier	(818) 687-4906	women	\$650
Reseda	Small Steps I	Al Pittman-J. McClure	(818) 881-0073	coed	\$500
Reseda	Soberspace	Chris Krug	(818) 235-9910	men	\$525
Sherman Oaks	<u>A Safe Place</u>	Doug Eggleton	(818) 590-4886	men	\$1500

7/6/2010

http://www.soberhousing.net/san_fernando.html

San Fernando Valley Sober Living Homes and Recovery Houses-Southern California

City	Sober Living Home	Contact	Phone	Serves	Cost
Stevenson Ranch	<u>Jax's Place</u>	Cheryl Petway	(818) 402-6148	men	\$695
Sun Valley	Alpha & Omega Sober Living	Rima Abelian, Samuel Tan	(818) 253-5989	coed	\$650
Sun Valley	Alpha & Omega Sober Living II	Rima Abelian, Samuel Tan	(818) 253-5989	coed	\$650
Sunland	<u>12 Step Sober Living</u>	Lisa & Joel Moss	(818) 445-9901	men	\$500
Sunland	<u>Club 12</u>	Mark Gregoire	(818) 674-2575	men	\$500
Sunland	<u>RAF Three Palms Ranch</u>	Robert Holbrook	(626) 216-5427	coed	\$650
Tarzana	<u>Sober Souls Ranch</u>	Audy Harman	(818) 266-2849	coed	\$940
Tarzana	<u>Sober Souls Sober Living</u>	Matthew	(818) 201-4717	coed	\$940
Tujunga	<u>Club 12 Sober Living</u>	Mark Gregoire	(818) 674-2575	men	\$500
Valley Glen	<u>Bridge at Valley Glen</u>	David Casey	(818) 939-3486	men	\$4000
Valley Glen	<u>Primary Purpose I</u>	Mary Grayson	(818) 612-1439	women	\$550
Valley Village	Sunrise I	Carmen Risiglione	(818) 968-6669	men	\$500
Van Nuys	<u>AANA Sobriety Central</u>	Joey Axelson	(818) 326-6499	men	\$550
Van Nuys	Kenneth Place Sober Living	Jeff Sibbel-Star Tomlinson	(818) 602-5959	men	\$600
Van Nuys	Maya Clean & Sober	Bia Sarro	(818) 585-8280	women	\$550
Van Nuys	<u>Primary Purpose II</u>	Mary Grayson	(818) 612-1439	men	\$550
Van Nuys	<u>Recovery Zone II</u>	Ike Eichar	(818) 894-8617	men	\$500
Van Nuys	<u>Ruth's House Sober Living</u>	Tamar Goldberg	(310) 936-8172	women	\$600
Van Nuys	Second Chance Sober Living	John Hakopyan	(818) 310-7433	men	\$400

San Fernando Valley Sober Living Homes and Recovery Houses-Southern California

City	Sober Living Home	Contact	Phone	Serves	Cost
Van Nuys	Second Chance Sober Living II	John Hakopyan	(818) 310-7433	men	\$500
Van Nuys	<u>Spencer House</u>	Ruben Calderon	(818) 785-6639	men	\$550
Van Nuys	Sunrise II	Carmen Risiglione	(818) 968-6669	men	\$550
Van Nuys	Sylvan House	Martin Suran	(818) 749-6282	coed	\$525
Westlake	<u>The Lake House</u>	Stuart Birnbaum	(877) 762-3707	coed	\$3500
Winnetka	Kelvin House	Lisa Richards	(818) 996-1051	men	\$425
Winnetka	New Beginnings Sober Living	Gina Romero	(818) 915-0548	women	\$500
Winnetka	Quartz House	Lisa Richards	(800) 996-1051	men	\$425
Woodland Hills	<u>Community Sober Living</u>	Paul Dumont	(818) 893-4365	coed	\$900
Woodland Hills	<u>Community Kids Sober Living</u>	Paul Dumont	(818) 893-4365	wm-w-ch	\$500
Woodland Hills	In Good Hands	Kage Njaka	(805) 630-1932	coed	\$5000
Woodland Hills	Sober College – Friar	Robert Pfeifer	(818) 274-0304	men	\$2000
Woodland Hills	Sober College – Melvin	Cody Bassett	(818) 274-0304	women	\$2000
Woodland Hills	Sober College – Oxnard	Robert Pfeifer	(818) 274-0304	men	\$2000
Woodland Hills	Sober College – Shoup	Robert Pfeifer	(818) 274-0304	men	\$2000

The Network would like to thank our generous website sponsors, whose listings appear in blue above.

The Sober Living Network
P.O. Box 5235

San Fernando Valley Sober Living Homes and Recovery Houses-Southern California

Santa Monica, CA 90409
(310) 396-5270

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HomeOrganizingTrainingCommunityContactSite Map

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Philip S. Gutierrez and the assigned discovery Magistrate Judge is Alicia G. Rosenberg.

The case number on all documents filed with the Court should read as follows:

CV11- 3530 PSG (AGR~~x~~)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

===== :
NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Sarah E. André (Bar No. 236145)
 Nixon Peabody LLP
 555 W. Fifth Street, 46th Floor
 Los Angeles, CA 90013
 Tel: (213) 629-6000
 Fax: (213) 6129-6001

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

PHOENIX HOUSE FOUNDATION, INC., PHOENIX
 HOUSES OF CALIFORNIA, INC., PHOENIX
 HOUSES OF LOS ANGELES, INC., PHOENIX
 HOUSE ORANGE COUNTY, and PHOENIX HOUSE
 SAN DIEGO, INC.,

PLAINTIFF(S)

v.

TIMOTHY K. FROST dba PHOENIX HOUSES,
 DEFENDANT(S).

CASE NUMBER

CV11 03530 PSG (AGR_x)

SUMMONS

TO: DEFENDANT(S): TIMOTHY K. FROST dba PHOENIX HOUSES

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Sarah E. André, whose address is 555 W. Fifth Street, 46th Floor, Los Angeles, CA 90013. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: April 25, 2011

By: **CHRISTOPHER POWERS**
 Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) Phoenix House Foundation, Inc., Phoenix Houses of California, Inc., Phoenix Houses of Los Angeles, Inc., Phoenix House Orange County, Inc., and Phoenix House San Diego, Inc.		DEFENDANTS Timothy K. Frost dba Phoenix Houses	
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Sarah E. André (Bar 236145) Nixon Peabody LLP 555 W. Fifth Street, 46 th Floor Los Angeles, CA 90013 Tel: 213-629-6000/Fax: 213-629-6001		Attorneys (If Known)	

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.)
☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify): _____
 ☐ 6 Multi-District Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)
CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No
MONEY DEMANDED IN COMPLAINT: \$ _____

VI. CAUSE OF ACTION (Cite the U. S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 Request for injunctive and declaratory relief under Lanham Act (15 U.S.C. § 1125, et seq.).

VII. NATURE OF SUIT (Place an X in one box only.)					
OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Consumer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 22 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 61 HIA(1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW 405(g) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

FOR OFFICE USE ONLY: Case Number: _____

CV11 03530

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County, California; Orange County, California	Manhattan County, New York; San Diego County, California.

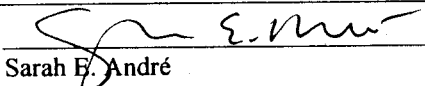
- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County, California	

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County, California	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties
Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date 4/25/11
 Sarah B. André

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3 -1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))